IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17400 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL ARPITABEN SUNILBHAI - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MR YV BRAHMBHATT for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1,
DS AFF.NOT FILED (R) for Respondent(s) : 2 - 3.
MR GM JOSHI for Respondent(s) : 2,
MR DC DAVE for Respondent(s) : 3,
RULE SERVED for Respondent(s) : 4 - 5.
MR HS MUNSHAW for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 20/12/2005

ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order directing the respondent

authorities to correct the date of birth of the petitioner in the School Leaving Certificate issued by the respondent No.2.

2. Shri Y.V.Brahmbhatt, learned advocate appearing on behalf of the petitioner has submitted that by mistake and through oversight the date of birth is mentioned in the School Leaving Certificate as 1.8.88 instead of 1.9.88, which is the correct date of birth. Shri Brahmbhatt, learned advocate appearing on behalf of the petitioner has submitted that when the petitioner was approached the respondent authorities to correct the date of birth in the School Leaving Certificate, the said authorities have refused to correct the same and therefore, the petitioner has preferred the present Special Civil Application.

3. The learned advocates appearing on behalf of the respondents have relied upon the order passed by the Division Bench of this Court rendered in Letters Patent Appeal No.699 of 2003 in Special Civil Application No. 8122 of 2003 and has submitted that as such the appropriate remedy for the petitioner is to approach the learned Magistrate First Class having jurisdiction

in the matter for redressal of his grievance as provided under Regulation 12(A) of the Gujarat Secondary Education Regulations; 1974 and therefore, it is requested to dismiss the present Special Civil Application.

4. Heard the learned advocates appearing on behalf of the parties.

5. It is not in dispute that the petitioner wants the correction of date of birth in the School Leaving Certificate. It is also not in dispute that the petitioner has already left the school. Considering the provisions of the Gujarat Secondary Education Regulations; 1974, more particularly, Regulation 12(A), once the student leaves the school, the said authority has no jurisdiction to make any correction in the School Leaving Certificate and the only remedy available to the petitioner-student is to approach the learned Magistrate First Class and to lead the evidence and obtain an appropriate order/direction directing the respondent authorities to make necessary changes. Identical question came to be considered by the Division Bench of this Court rendered in Letters Patent

Appeal No.699 of 2003 in Special Civil Application No. 8277 of 2003 wherein while dismissing the Letters Patent Appeal and confirming the order passed by the learned Single Judge, the Division Bench has held that the petitioner has remedy by way of making an appropriate application before the learned Magistrate First Class having jurisdiction in the matter and to obtain an appropriate order by leading evidence and producing the material in his favour. In view of the above, the present Special Civil Application is dismissed. It will be open for the petitioner to approach the learned Magistrate First Class having jurisdiction in the matter for the redressal of his grievance and obtain an appropriate order/direction after leading evidence.

6. This Special Civil Application is accordingly, dismissed. Rule is discharged.

(M.R.SHAH, J.)

kdc.